

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0270P

**Sales Tax and Use Tax
For Calendar Years 1995, 1996, and 1997**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on March 3, 2000 for audit years 1995, 1996, and 1997.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer failed to remit 3.9%, 4.8%, and 4.6% of its sales tax due, and 3.7%, 29.1%, and 27.3% of its use tax for calendar years 1995, 1996, and 1997 respectively. A review of the audit report indicates the assessments stemmed from taxpayer's inclusion of taxable items such as copying, printing, desktop publishing, color copies, etc. in exempt sales. Taxpayer also failed to self assess use tax on fixed assets such as carpet, computer equipment and related products.

Taxpayer requests a waiver of penalties because it exercises due care in obtaining exemption certificates and in verifying exempt sales and further states that the number of transactions along with the number of individuals involved in exempt sale matters makes complete compliance extremely difficult. Taxpayer states that the liability is well within the realm of materiality and is less than 4.2% of taxes remitted during the audit period and indicates it has acted with reasonable cause and that the penalty should be abated

in full.

Taxpayer failed to collect and remit tax on clearly taxable sales and failed to self assess use tax on clearly taxable purchases. The taxpayer was negligent in failing to self-assess and remit taxes and has not provided reasonable cause for failure to do so.

FINDING

Taxpayer's protest is denied.